

REMARKS

The Office Action dated June 20, 2007 has been received and carefully considered. Reconsideration of the outstanding rejections in the present application is respectfully requested based on the following remarks.

I. THE ENABLEMENT REJECTION OF CLAIMS 26-46, 48-54, and 56-73

On page 2 of the Office Action, claims 26-46, 48-54, and 56-73 were rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. This rejection is hereby respectfully traversed.

The Examiner asserts that the "limitation constitutes new matter and fails to comply with the written description requirement since the invention as disclosed fails to describe a method wherein all write commands are intercepted. That is, wherein write commands are intercepted (i.e. stopped by another party), the original data store would not receive said write commands." Office Action, page 3. Applicants respectfully disagree with this assertion. For example, and without limitation, Applicants direct Examiner to Figure 1, where a storage management device is connected to both a host and a

physical store. Paragraph [0063] states, in part, "[i]n response to the host 34 I/O requests, over the communication link 40, the storage management device acts as if it was the physical store 36." The Office Action's indirect reference to new matter is also refuted by at least the specification references above.

As stated in MPEP § 2163.02, the fundamental factual inquiry is whether a claim defines an invention that is clearly conveyed to those skilled in the art at the time the application was filed. The subject matter of the claim need not be described literally (i.e., using the same terms or in *haec verba*) in order for the disclosure to satisfy the description requirement.

In view of the foregoing, it is respectfully requested that the aforementioned enablement rejection of claims 26-46, 48-54, and 56-73 be withdrawn.

II. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to

expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,

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